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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,435	07/21/2003	Austin Poole	71422-0006	1434

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EXAMINER

THOMPSON, HUGH B

ART UNIT PAPER NUMBER

3634

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/604,435

Applicant(s)

POOLE ET AL.

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9,11-14,19-21,23-29,31,32 and 34-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9,11-14,19-21,23-29,31,32 and 34-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 4, 7, 8, 19, 20, 26, 27, 28, and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 2, 4, 7, and 8, the applicant has recited “the at least one second member”. Note that in claim 1, *two* “at least one second member(s)” have been recited, i.e., one for each platform. However, the claims suggest only one second member. How many are required?

With respect to claims 19 and 26, the applicant recites a telescopic relationship between the first and second members. However, in respective dependent claims 20 and 27, the applicant recites a pivotal attachment between the first and second members. It is unclear as to the type of connection required.

With respect to claim 28, the applicant recites that the first and second members both are adapted to contact the vertical structure. The applicant goes on to further recite a telescopic relationship between the first and second members. It is unclear as to how both members contact the vertical structure, and yet one is received within the other.

With respect to claim 40, there is no antecedent basis for “the compression member”. Note the phrase “portion adapted to compressively register” in claim 35.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-9, 11-14, 19-21, 23-29, 31, 32, 34, 35, and 39-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Bradley #5,016,733. Bradley, as best seen in Figures 2 and 4, discloses a tree stand system comprised of platforms 15, 20, each having frames 12, 13, and 21, 22 that are pivotally attached to one another, frame 21 having adjustable compressive first members 26, which also serves to lockingly connect frames 21 and 22, and frame 12 having tensile second members 31, the second members having a telescopic attitude adjuster assembly/adjustable mounting 32-36 therein, the attitude adjuster assembly also having support arms 33, 34 that extend around a portion of the vertical structure/tree, and locking assembly 38.

Claims 35-38 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Morris #6,345,690. Morris discloses a tree stand system comprised of platforms 100, 200, first arm assembly 120 and 140D, and second arm assembly 125 and 140E, both being pivotally attached to platform portion 110, 112, vertical structure arm grips 142, 144, movable compressive register portion 140, and pin locking connection at 140A, as recited in column 6, lines 37-58.

Claims 35-37 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Woller et al #5,226,505. Woller et al disclose a tree stand assembly 10 comprised of platform 12, first arm assembly 14, 46, and second arm assembly 16, 48, both assemblies being pivotally attached

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to the platform at 36, 38, vertical structure arm grips 46, 48, of the arm assemblies, movable compressive register portion 18, and arm locking connection at 50.

Claims 35-37 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by McSwain #3,336,999. McSwain disclose a tree stand assembly comprised of platform 10, first and second arm assemblies 64, 70, both assemblies being pivotally attached to the platform at 72, vertical structure arm grips 66 of the arm assemblies, and movable compressive register portions/ arm locking connection 28, 88, 90.

### *Conclusion*

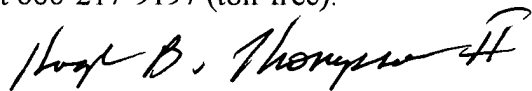
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ferguson et al #4,168,765, Amacker #4,331,216, Thomas #4,552,246, Bradley #4,942,942, Amacker #5,090,505, and Nelson are cited to teach tree stand assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

June 7, 2005